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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,046	02/20/2002	Hardayal Singh Gill	SJ09-2001-0142/11758	2452

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INTERNATIONAL BUSINESS MACHINES CORPORATION
5600 COTTLE ROAD, DEPT. L2PA/010
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95193-0001

EXAMINER

MAGEE, CHRISTOPHER R

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/081,046

Applicant(s)

GILL, HARDAYAL SINGH

Examiner

Christopher R. Magee

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

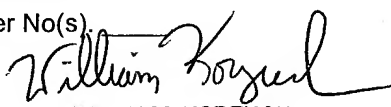
Claim(s) allowed: 6 and 17.

Claim(s) objected to: _____

Claim(s) rejected: 1-5, 7-16 and 18-23.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____


WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: The final rejection is still deemed appropriate. First, the Examiner maintains that Figure 3 of Hasegawa '338 illustrates an upper antiferromagnetic layer 46 overlying at least a portion of the free layer 44 as claimed in the present invention (Final Office Action, dated 3/22/2004). Applicant's argument on page 11, regarding the "amount of overlay represented by the sidewall of free layer 44 would be negligible" is not persuasive. The upper antiferromagnetic layer 46 of Hasegawa '338 overlies (i.e., to lie over or upon) at least a portion of the free layer 44. Second, Hasegawa '338 discloses an upper ferromagnetic layer 47 overlying and contacting at least a portion of the upper antiferromagnetic layer 46 on a contact face lying parallel to the sensor surface plane, so that the upper antiferromagnetic layer 46 lies between the upper ferromagnetic layer 47 and the free layer 44 (Fig. 3).